

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1010

By: Quinn of the Senate

and

Moore of the House

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9 An Act relating to insurance; amending 36 O.S. 2011,
10 Section 1250.4, as last amended by Section 4, Chapter
11 95, O.S.L. 2018 (36 O.S. Supp. 2018, Section 1250.4),
12 which relates to response to inquiries; modifying
13 time frame for certain response; authorizing
14 Insurance Commissioner to extend certain time frame;
15 requiring certain inquiry to be delivered
16 electronically; amending 36 O.S. 2011, Section
17 1435.8, which relates to insurance producer licenses;
18 modifying information required for maintaining
19 licensure; amending 36 O.S. 2011, Section 1435.13,
20 which relates to suspension and revocation of
21 license; adding causes for license penalty;
22 eliminating requirement to return license in certain
23 circumstances; amending 36 O.S. 2011, Section
24 1435.15, as amended by Section 7, Chapter 275, O.S.L.
2014 (36 O.S. Supp. 2018, Section 1435.15), which
relates to appointment of producer as agent of
insurer; modifying timeline of certain filing;
amending 36 O.S. 2011, Section 1435.18, which relates
to administrative actions or criminal prosecutions
against producer; adding persons required to provide
certain notice to Insurance Commissioner; providing
for suspension of license for violating provision;
applying certain provision to certain licenses;
amending 36 O.S. 2011, Section 1450, which relates to
licensing procedure; requiring administrator to
provide notice to Insurance Commissioner of certain
legal or administrative action; amending 36 O.S.
2011, Section 4055.3, which relates to application
procedures; modifying factors Insurance Commissioner

1 shall consider for licensure; amending 36 O.S. 2011,
2 Section 6203, which relates to persons not deemed
3 adjusters or required to obtain license; modifying
4 situation in which nonresident insurance adjuster is
5 exempt from licensure; amending 36 O.S. 2011, Section
6 6206, as amended by Section 13, Chapter 44, O.S.L.
7 2012 (36 O.S. Supp. 2018, Section 6206), which
8 relates to mailing addresses; modifying information
9 required to be submitted to Insurance Commissioner;
10 amending 36 O.S. 2011, Section 6220, as last amended
11 by Section 10, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
12 2018, Section 6220), which relates to suspension,
13 revocation or refusal to renew license; eliminating
14 ground for penalty; adding use of certain materials
15 in licensing exam as ground for penalty; applying
16 certain restrictions regardless of power of attorney
17 or other agreements; amending 36 O.S. 2011, Section
18 6220.1, as amended by Section 6, Chapter 297, O.S.L.
19 2015 (36 O.S. Supp. 2018, Section 6220.1), which
20 relates to penalties; amending 36 O.S. 2011, Section
21 6754, which relates to service contracts; requiring
22 certain filing and updates of service contracts;
23 updating statutory language; updating statutory
24 reference; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1250.4, as
last amended by Section 4, Chapter 95, O.S.L. 2018 (36 O.S. Supp.
2018, Section 1250.4), is amended to read as follows:

Section 1250.4. A. An insurer's claim files shall be subject
to examination by the Insurance Commissioner or by duly appointed
designees. Such files shall contain all notes and work papers
pertaining to a claim in such detail that pertinent events and the
dates of such events can be reconstructed. In addition, the
Insurance Commissioner, authorized employees and examiners shall

1 have access to any of an insurer's files that may relate to a
2 particular complaint under investigation or to an inquiry or
3 examination by the Insurance Department.

4 B. Any person subject to the jurisdiction of the Commissioner,
5 upon receipt of any inquiry from the Commissioner shall, within
6 ~~thirty (30)~~ twenty (20) calendar days from the date of receipt of
7 the inquiry, furnish the Commissioner with an adequate response to
8 the inquiry. The Commissioner may, upon good cause shown and on a
9 case-by-case basis, extend the time allowed for a response for up to
10 seven (7) additional calendar days. Any inquiry or response subject
11 to this subsection shall be delivered electronically.

12 C. Every insurer, upon receipt of any pertinent written
13 communication including but not limited to e-mail or other forms of
14 written electronic communication, or documentation by the insurer of
15 a verbal communication from a claimant which reasonably suggests
16 that a response is expected, shall, within thirty (30) days after
17 receipt thereof, furnish the claimant with an adequate response to
18 the communication.

19 D. Any violation by an insurer of this section shall subject
20 the insurer to discipline including a civil penalty of not less than
21 One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
22 (\$5,000.00).

23 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1435.8, is
24 amended to read as follows:

1 Section 1435.8. A. Unless denied licensure pursuant to Section
2 1435.13 of this title, persons who have met the requirements of
3 Sections 1435.6 and 1435.7 of this title shall be issued an
4 insurance producer license. An insurance producer may receive
5 qualification for a license in one or more of the following lines of
6 authority:

7 1. Life - insurance coverage on human lives including benefits
8 of endowment and annuities, and may include benefits in the event of
9 death or dismemberment by accident and benefits for disability
10 income;

11 2. Accident and health or sickness - insurance coverage for
12 sickness, bodily injury or accidental death and may include benefits
13 for disability income;

14 3. Property - insurance coverage for the direct or
15 consequential loss or damage to property of every kind;

16 4. Casualty - insurance coverage against legal liability,
17 including that for death, injury or disability or damage to real or
18 personal property;

19 5. Variable life and variable annuity products - insurance
20 coverage provided under variable life insurance contracts and
21 variable annuities;

22 6. Personal lines - property and casualty insurance coverage
23 sold to individuals and families for primarily noncommercial
24 purposes;

1 7. Commercial lines - property and casualty insurance coverage
2 sold to businesses for primarily commercial purposes;

3 8. Credit - limited line credit insurance;

4 9. Title insurance - insurance coverage that insures or
5 guarantees the title to real or personal property or any interest
6 therein or encumbrance thereon;

7 10. Aircraft title insurance - insurance coverage that protects
8 an aircraft owner or lender against loss of the aircraft or priority
9 security position in the event of a successful adverse claim on the
10 title to an aircraft; and

11 11. Any other line of insurance permitted under state laws or
12 regulations.

13 B. An insurance producer license shall remain in effect unless
14 revoked or suspended as long as the fee set forth in Section 1435.23
15 of this title is paid and education requirements for resident
16 individual producers are met by the due date.

17 C. An individual insurance producer who allows the license to
18 lapse may, within twelve (12) months from the due date of the
19 renewal fee, reinstate the same license without the necessity of
20 passing a written examination unless the license was revoked,
21 suspended, or continuation thereof was refused by the Commissioner.
22 However, a penalty in the amount of double the unpaid renewal fee
23 shall be required for any renewal fee received after the due date.
24 Continuing education requirements must be kept current.

1 D. A licensed insurance producer who is unable to comply with
2 license renewal procedures due to military service or some other
3 extenuating circumstance, such as a long-term medical disability,
4 may request a waiver of those procedures. The producer may also
5 request a waiver of any examination requirement or any other fine or
6 sanction imposed for failure to comply with renewal procedures.

7 E. The license shall contain the licensee's name, physical
8 residential address, physical business address, preferred mailing
9 address, personal identification number, and the date of issuance,
10 the lines of authority, the expiration date and any other
11 information the Insurance Commissioner deems necessary.

12 F. Licensees shall inform by any means acceptable to the
13 Insurance Commissioner of a change of legal name, address, or e-mail
14 address within thirty (30) days of the change to permit the
15 Insurance Commissioner to give proper notice to licensees. A change
16 in legal name or address submitted more than thirty (30) days after
17 the change must include an administrative fee of Fifty Dollars
18 (\$50.00). Failure to provide acceptable notification of a change of
19 legal name or address to the Insurance Commissioner within forty-
20 five (45) days of the date the administrative fee is assessed shall
21 result in penalties pursuant to Section 1435.13 of this title.

22 G. In order to assist in the performance of the Insurance
23 Commissioner's duties, the Insurance Commissioner may contract with
24 nongovernmental entities, including the National Association of

1 Insurance Commissioners (NAIC) or any affiliates or subsidiaries
2 that the NAIC oversees, to perform any ministerial functions,
3 including the collection of fees, related to producer licensing that
4 the Insurance Commissioner and the nongovernmental entity may deem
5 appropriate.

6 H. The Commissioner may participate, in whole or in part, with
7 the National Association of Insurance Commissioners, or any
8 affiliates or subsidiaries the National Association of Insurance
9 Commissioners oversees, in a centralized producer license registry
10 where insurance producer licenses and appointments may be centrally
11 or simultaneously effected for all states that require an insurance
12 producer license and participate in such centralized producer
13 license registry. If the Commissioner finds that participation in
14 such a centralized producer license registry is in the public
15 interest, the Commissioner may adopt by rule any uniform standards
16 or procedures as are necessary to participate in the registry. This
17 includes the central collection of all fees for licenses or
18 appointments that are processed through the registry.

19 SECTION 3. AMENDATORY 36 O.S. 2011, Section 1435.13, is
20 amended to read as follows:

21 Section 1435.13. A. The Insurance Commissioner may place on
22 probation, censure, suspend, revoke or refuse to issue or renew a
23 license issued pursuant to the Oklahoma Producer Licensing Act or
24 may levy a civil penalty in accordance with subsection D of this

1 section or any combination of actions, for any one or more of the
2 following causes:

3 1. Providing incorrect, misleading, incomplete or materially
4 untrue information in the license application;

5 2. Violating any insurance laws, or violating any regulation,
6 subpoena or order of the Insurance Commissioner or of another
7 state's Insurance Commissioner;

8 3. Obtaining or attempting to obtain a license through
9 misrepresentation or fraud;

10 4. Improperly withholding, misappropriating or converting any
11 monies or properties received in the course of doing insurance
12 business;

13 5. Intentionally misrepresenting the terms of an actual or
14 proposed insurance contract or application for insurance;

15 6. Having been convicted of a felony;

16 7. Having admitted or been found to have committed any
17 insurance unfair trade practice or fraud;

18 8. Using fraudulent, coercive, or dishonest practices, or
19 demonstrating incompetence, untrustworthiness or financial
20 irresponsibility in the conduct of business in this state or
21 elsewhere;

22 9. Having an insurance producer license, or its equivalent,
23 denied, suspended, censured, placed on probation or revoked in any
24 other state, province, district or territory;

1 10. Forging another's name to an application for insurance or
2 to any document related to an insurance transaction;

3 11. Improperly using notes or any other reference material to
4 complete an examination for an insurance license;

5 12. Knowingly accepting insurance business from an individual
6 who is not licensed;

7 13. Failing to comply with an administrative or court order
8 imposing a child support obligation; ~~or~~

9 14. Failing to pay state income tax or comply with any
10 administrative or court order directing payment of state income tax;

11 15. Failing to respond to an inquiry from the Department as
12 required in Section 1250.4 of this title; or

13 16. Any cause for which an original issuance of a license could
14 have been refused.

15 B. In the event that the action by the Insurance Commissioner
16 is to nonrenew or to deny an application for a license, the
17 Insurance Commissioner shall notify the applicant or licensee and
18 advise the applicant or licensee, in writing, of the reason for the
19 denial or nonrenewal of the applicant's or licensee's license. The
20 applicant or licensee may make written demand upon the Insurance
21 Commissioner within thirty (30) days of the date of notification of
22 ~~said~~ the notification by the Insurance Commissioner for a hearing
23 before the Insurance Commissioner or an independent hearing examiner
24 to determine the reasonableness of the Insurance Commissioner's

1 action. The hearing shall be heard within a reasonable time period
2 and shall be held pursuant to the Oklahoma Administrative Procedures
3 Act.

4 C. The license of a business entity may be suspended, revoked
5 or refused if the Insurance Commissioner finds, after opportunity
6 for hearing, that an individual licensee's violation was known or
7 should have been known by one or more of the partners, officers or
8 managers acting on behalf of the partnership or corporation and the
9 violation was neither reported to the Insurance Commissioner nor
10 corrective action taken.

11 D. In addition to or in lieu of any applicable denial,
12 probation, censure, suspension or revocation of a license, a person
13 may, after opportunity for hearing, be subject to a civil fine of
14 not less than One Hundred Dollars (\$100.00) nor more than One
15 Thousand Dollars (\$1,000.00) for each occurrence. ~~Said~~ The penalty
16 may be enforced in the same manner in which civil judgments may be
17 enforced.

18 E. Every licensee licensed pursuant to the provisions of the
19 Oklahoma Producer Licensing Act shall keep at the licensee's place
20 of business the usual and customary records pertaining to
21 transactions authorized by the license. All records as to any
22 particular transactions shall be kept available and open to the
23 inspection of the Commissioner at any time during business hours
24 during the three (3) years immediately following the date of

1 completion of the transaction. The Commissioner may require a
2 financial or market conduct examination during any investigation of
3 a licensee. The cost of such examination shall be apportioned among
4 all of the appointing insurers of the licensee.

5 F. The Insurance Commissioner shall retain the authority to
6 enforce the provisions of and impose any penalty or remedy
7 authorized by the Oklahoma Producer Licensing Act and Title 36 of
8 the Oklahoma Statutes against any person who is under investigation
9 for or charged with a violation of the Oklahoma Producer Licensing
10 Act or Title 36 of the Oklahoma Statutes even if the person's
11 license or registration has been surrendered or has lapsed by
12 operation of law.

13 G. Files pertaining to investigations or legal matters which
14 contain information concurring a current and ongoing investigation
15 of allegations of violations of the Oklahoma Insurance Code by a
16 licensed agent shall not be available for public inspection without
17 proper judicial authorization; however, a licensee under
18 investigation for alleged violations of the Oklahoma Insurance Code,
19 or against whom an action for alleged violations of the Oklahoma
20 Insurance Code has been commenced, may view evidence and complaints
21 pertaining to the investigation, other than privileged information,
22 at reasonable times at the Commissioner's office. All qualification
23 examination materials, booklets and answers for any license
24 authorized to be issued by the Commissioner under any statute shall

1 not be available for public inspection. The residence address,
2 residence telephone number, birth date, and social security number
3 of a licensee shall not be available for public inspection. A
4 separate business or mailing address provided by the licensee shall
5 be considered a public record. If the residence and business
6 addresses or residence and business telephone numbers are the same,
7 such addresses or telephone numbers shall be considered a public
8 record.

9 H. The Commissioner shall promptly notify all appointing
10 insurers, where applicable, and the licensee regarding any censure,
11 suspension, revocation or termination of license by the
12 Commissioner.

13 I. Upon suspension, revocation or termination of the license of
14 a resident or nonresident of this state, the Commissioner shall
15 notify the Central Office of the National Association of Insurance
16 Commissioners, or its appropriate nonprofit affiliates and the
17 Insurance Commissioner of each state for whom the Commissioner has
18 executed a certificate of licensure status.

19 ~~J. Any licensee who ceases to maintain residency in this state~~
20 ~~shall deliver the licensee's insurance license to the Commissioner~~
21 ~~by personal delivery or by mail with return receipt requested within~~
22 ~~ten (10) days after terminating residency.~~

23 ~~K.~~ The Commissioner may issue a duplicate license for any lost,
24 stolen or destroyed license issued pursuant to ~~this act~~ the Oklahoma

1 Producer Licensing Act upon an affidavit of the licensee prescribed
2 by the Commissioner concerning the facts of such loss, theft or
3 destruction.

4 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1435.15, as
5 amended by Section 7, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2018,
6 Section 1435.15), is amended to read as follows:

7 Section 1435.15. A. An insurance producer shall not act as an
8 agent of an insurer unless the insurance producer becomes an
9 appointed agent of that insurer. An insurance producer who is not
10 acting as an agent of an insurer is not required to become
11 appointed.

12 B. To appoint a producer as its agent, the appointing insurer,
13 or an authorized representative of the insurer, shall file, in a
14 format approved by the Insurance Commissioner, a notice of
15 appointment within fifteen (15) days from the date the ~~agency agent~~
16 contract is executed ~~or the first insurance application is~~
17 ~~submitted~~. For purposes of this section, an "authorized
18 representative of the insurer" means a person or entity licensed by
19 the Commissioner pursuant to the laws of this state who is
20 authorized in writing by the appointing insurer to file appointments
21 for the appointing insurer. An insurer or authorized representative
22 of an insurer may also elect to appoint a producer to all or some
23 insurers within the insurer's holding company system or group by the
24 filing of a single appointment request.

1 C. Upon receipt of the notice of appointment, the Insurance
2 Commissioner shall verify within a reasonable time not to exceed
3 thirty (30) days that the insurance producer is eligible for
4 appointment. If the insurance producer is determined to be
5 ineligible for appointment, the Commissioner shall notify the
6 insurer and the authorized representative of the insurer within five
7 (5) days of its determination.

8 D. An insurer or authorized representative of an insurer shall
9 pay an appointment fee, in the amount and method of payment set
10 forth in Section 1435.23 of this title, for each insurance producer
11 appointed by the insurer for each insurer for which the insurance
12 producer is appointed.

13 E. It shall be unlawful for any insurer to discriminate among
14 or between the insurance producers it has appointed. Any person or
15 company convicted of violating the provisions of this section shall
16 be guilty of a misdemeanor and shall be punished by the imposition
17 of a fine of not more than Five Hundred Dollars (\$500.00) or
18 imprisonment in the county jail for not less than six (6) months nor
19 more than one (1) year, or be punished by both fine and
20 imprisonment.

21 SECTION 5. AMENDATORY 36 O.S. 2011, Section 1435.18, is
22 amended to read as follows:

23 Section 1435.18. A. A Whether an applicant for, a person
24 licensed as or a person seeking a renewal for a producer license,

1 that person shall report to the Insurance Commissioner any
2 administrative action taken against ~~the producer~~ that person in
3 another jurisdiction or by another governmental agency in this state
4 within thirty (30) days of the final disposition of the matter.
5 This report shall include a copy of the order, consent to order or
6 other relevant legal documents.

7 B. Within thirty (30) days of the initial pretrial hearing
8 date, an applicant for, a person licensed as or a person seeking a
9 renewal for a producer license shall report to the Insurance
10 Commissioner any criminal prosecution of ~~the producer~~ that person
11 taken in any jurisdiction. The report shall include a copy of the
12 initial complaint filed, the order resulting from the hearing and
13 any other relevant legal documents.

14 C. Failure to comply with this statute shall result in
15 immediate suspension of an application for, a license of or renewal
16 of a producer license.

17 D. The provisions of this section shall apply to all licenses
18 under Sections 4055.1 et seq. of this title, the Unauthorized
19 Insurers and Surplus Lines Insurance Act, Section 1100 et seq. of
20 this title, the Oklahoma Producer Licensing Act, Section 1435.1 et
21 seq. of this title and the Insurance Adjusters Licensing Act,
22 Section 6201 et seq. of this title.

23 SECTION 6. AMENDATORY 36 O.S. 2011, Section 1450, is
24 amended to read as follows:

1 Section 1450. A. No person shall act as or present himself or
2 herself to be an administrator, as defined by the provisions of the
3 Third-party Administrator Act, in this state, unless the person
4 holds a valid license as an administrator which is issued by the
5 Insurance Commissioner.

6 B. An administrator shall not be eligible for a nonresident
7 administrator license under this section if the administrator does
8 not hold a home state certificate of authority or license in a state
9 that has adopted the Third-party Administrator Act or that applies
10 substantially similar provisions as are contained in the Third-party
11 Administrator Act to that administrator. If the Third-party
12 Administrator Act in the administrator's home state does not extend
13 to stop-loss insurance, but if the home state otherwise applies
14 substantially similar provisions as are contained in the Third-party
15 Administrator Act to that administrator, then that omission shall
16 not operate to disqualify the administrator from receiving a
17 nonresident administrator license in this state.

18 1. "Home state" means the United States jurisdiction that has
19 adopted the Third-party Administrator Act or a substantially similar
20 law governing third-party administrators and which has been
21 designated by the administrator as its principal regulator. The
22 administrator may designate either its state of incorporation or its
23 principal place of business within the United States if that
24 jurisdiction has adopted the Third-party Administrator Act or a

1 substantially similar law governing third-party administrators. If
2 neither the administrator's state of incorporation nor its principal
3 place of business within the United States has adopted the Third-
4 party Administrator Act or a substantially similar law governing
5 third-party administrators, then the third-party administrator shall
6 designate a United States jurisdiction in which it does business and
7 which has adopted the Third-party Administrator Act or a
8 substantially similar law governing third-party administrators. For
9 purposes of this definition, "United States jurisdiction" means the
10 District of Columbia or a state or territory of the United States.

11 2. "Nonresident administrator" means a person who is applying
12 for licensure or is licensed in any state other than the
13 administrator's home state.

14 C. In the case of a partnership which has been licensed, each
15 general partner shall be named in the license and shall qualify
16 therefore as though an individual licensee. The Commissioner shall
17 charge a full additional license fee and a separate license shall be
18 issued for each individual so named in such a license. The
19 partnership shall notify the Commissioner within fifteen (15) days
20 if any individual licensed on its behalf has been terminated, or is
21 no longer associated with or employed by the partnership. Any
22 entity or partnership licensed as administrators under the Third-
23 party Administrators Act shall provide National Association of
24

1 Insurance Commissioner Biographical Affidavits as required for
2 domestic insurers pursuant to the insurance laws of this state.

3 D. An application for an administrator's license shall be in a
4 form prescribed by the Commissioner and shall be accompanied by a
5 fee of One Hundred Dollars (\$100.00). This fee shall not be
6 refundable if the application is denied or refused for any reason by
7 either the applicant or the Commissioner.

8 E. The administrator's license shall continue in force no
9 longer than twelve (12) months from the original month of issuance.
10 Upon filing a renewal form prescribed by the Commissioner,
11 accompanied by a fee of One Hundred Dollars (\$100.00), the license
12 may be renewed annually for a one-year term. Late application for
13 renewal of a license shall require a fee of double the amount of the
14 original license fee. The administrator shall submit, together with
15 the application for renewal, a list of the names and addresses of
16 the persons with whom the administrator has contracted in accordance
17 with Section 1443 of this title. The Commissioner shall hold this
18 information confidential except as provided in Section 1443 of this
19 title.

20 F. 1. The administrator's license shall be issued or renewed
21 by the Commissioner unless, after notice and opportunity for
22 hearing, the Commissioner determines that the administrator is not
23 competent, trustworthy, or financially responsible, or has had any
24 insurance license denied for cause by any state, has been convicted

1 or has pleaded guilty or nolo contendere to any felony or to a
2 misdemeanor involving moral turpitude or dishonesty.

3 2. The administrator shall report to the Insurance Commissioner
4 any administrative or criminal action taken against the
5 administrator in another jurisdiction or by another governmental
6 agency in this state within thirty (30) calendar days of the final
7 disposition of the matter. This report shall include a copy of the
8 order, consent to order, copy of any payment required as a result of
9 the administrative or criminal action, or other relevant legal
10 documents.

11 G. After notice and opportunity for hearing, and upon
12 determining that the administrator has violated any of the
13 provisions of the Oklahoma Insurance Code or upon finding reasons
14 for which the issuance or nonrenewal of such license could have been
15 denied, the Commissioner may either suspend or revoke an
16 administrator's license or assess a civil penalty of not more than
17 Five Thousand Dollars (\$5,000.00) for each occurrence. The payment
18 of the penalty may be enforced in the same manner as civil judgments
19 may be enforced.

20 H. Any person who is acting as or presenting himself or herself
21 to be an administrator without a valid license shall be subject,
22 upon conviction, to a fine of not less than One Thousand Dollars
23 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each
24 occurrence. This fine shall be in addition to any other penalties

1 which may be imposed for violations of the Oklahoma Insurance Code
2 or other laws of this state.

3 I. Except as provided for in subsections F and G of this
4 section, any person convicted of violating any provisions of the
5 Third-party Administrator Act shall be guilty of a misdemeanor and
6 shall be subject to a fine of not more than One Thousand Dollars
7 (\$1,000.00).

8 SECTION 7. AMENDATORY 36 O.S. 2011, Section 4055.3, is
9 amended to read as follows:

10 Section 4055.3. A. 1. A person shall not operate as a
11 viatical settlement provider or viatical settlement broker without
12 first obtaining a license from the Insurance Commissioner of the
13 state of residence of the viator.

14 2. a. A life insurance producer who has been duly licensed
15 as a resident insurance producer with a life line of
16 authority in this state or his or her home state for
17 at least one (1) year and is licensed as a nonresident
18 producer in this state shall be deemed to meet the
19 licensing requirements of this section and shall be
20 permitted to operate as a viatical settlement broker.

21 b. Not later than thirty (30) days from the first day of
22 operating as a viatical settlement broker, the life
23 insurance producer shall notify the Commissioner that
24 he or she is acting as a viatical settlement broker on

1 a form prescribed by the Commissioner, and shall pay
2 any applicable fee to be determined by the
3 Commissioner. Notification shall include an
4 acknowledgement by the life insurance producer that he
5 or she will operate as a viatical settlement broker in
6 accordance with the Viatical Settlements Act of 2008.

7 c. The insurer that issued the policy being viaticated
8 shall not be responsible for any act or omission of a
9 viatical settlement broker or viatical settlement
10 provider arising out of or in connection with the
11 viatical settlement transaction, unless the insurer
12 receives compensation for the placement of a viatical
13 settlement contract from the viatical settlement
14 provider or viatical settlement broker in connection
15 with the viatical settlement contract.

16 3. A person licensed as an attorney, certified public
17 accountant or financial planner accredited by a nationally
18 recognized accreditation agency, who is retained to represent the
19 viator, whose compensation is not paid directly or indirectly by the
20 viatical settlement provider, may negotiate viatical settlement
21 contracts on behalf of the viator without having to obtain a license
22 as a viatical settlement broker.

23 B. Application for a viatical settlement provider or a viatical
24 settlement broker license shall be made to the Commissioner by the

1 applicant on a form prescribed by the Commissioner. The application
2 shall be accompanied by a fee of Five Hundred Dollars (\$500.00).

3 C. Licenses may be renewed from year to year on the anniversary
4 date upon payment of the annual renewal fees of Five Hundred Dollars
5 (\$500.00). Failure to pay the fees by the renewal date results in
6 expiration of the license.

7 D. The applicant shall provide information on forms required by
8 the Commissioner. The Commissioner shall have authority, at any
9 time, to require the applicant to fully disclose the identity of all
10 stockholders, partners, officers, members and employees, and the
11 Commissioner may, in the exercise of the Commissioner's discretion,
12 refuse to issue a license in the name of a legal entity if not
13 satisfied that any officer, employee, stockholder, partner or member
14 thereof who may materially influence the applicant's conduct meets
15 the standards of the Viatical Settlements Act of 2008.

16 E. A license issued to a legal entity authorizes all partners,
17 officers, members and designated employees to act as viatical
18 settlement providers, viatical settlement brokers as applicable,
19 under the license, and all those persons shall be named in the
20 application and any supplements to the application.

21 F. Upon the filing of an application and the payment of the
22 license fee, the Commissioner shall make an investigation of each
23 applicant and issue a license if the Commissioner finds that the
24 applicant:

1 1. If a viatical settlement provider, has provided a detailed
2 plan of operation;

3 2. Is competent and trustworthy and intends to act in good
4 faith in the capacity involved by the license applied for;

5 3. Has a good business reputation and has had experience,
6 training or education so as to be qualified in the business for
7 which the license is applied for;

8 4. a. If a viatical settlement provider, has demonstrated
9 evidence of financial responsibility in a format
10 prescribed by the Commissioner, through a surety bond
11 executed and issued by an insurer authorized to issue
12 surety bonds in this state, a policy of errors and
13 omissions insurance, or a deposit of cash,
14 certificates of deposit or securities or any
15 combination thereof in ~~an~~ the amount ~~not to exceed of~~
16 Fifty Thousand Dollars (\$50,000.00), or

17 b. If a viatical settlement broker, has demonstrated
18 evidence of financial responsibility in a format
19 prescribed by the Commissioner, through a surety bond
20 executed and issued by an insurer authorized to issue
21 surety bonds in this state, a policy of errors and
22 omissions insurance, or a deposit of cash,
23 certificates of deposit or securities or any
24

1 combination thereof in ~~an~~ the amount ~~not to exceed~~ of
2 Fifty Thousand Dollars (\$50,000.00), or

3 c. The Commissioner may ask for evidence of financial
4 responsibility at any time the Commissioner deems
5 necessary;

6 5. If a legal entity, provides a certificate of good standing
7 from the state of its domicile; and

8 6. If a viatical settlement provider or viatical settlement
9 broker, has provided an antifraud plan that meets the requirements
10 of subsection G of Section 13 of Enrolled Senate Bill No. 1980 of
11 the 2nd Session of the 51st Oklahoma Legislature.

12 G. The Commissioner shall not issue a license to a nonresident
13 applicant, unless a written designation of an agent for service of
14 process is filed and maintained with the Commissioner, or the
15 applicant has filed with the Commissioner the applicant's written
16 irrevocable consent that any action against the applicant may be
17 commenced against the applicant by service of process on the
18 Commissioner.

19 H. A viatical settlement provider, viatical settlement broker
20 or viatical settlement investment agent shall provide to the
21 Commissioner new or revised information about officers, ten percent
22 (10%) or more stockholders, partners, directors, members or
23 designated employees within thirty (30) days of the change.

1 I. An individual licensed as a viatical settlement broker shall
2 complete on a biennial basis eight (8) hours of training related to
3 viatical settlements and viatical settlement transactions, as
4 required by the Commissioner; provided, however, that a life
5 insurance producer who is operating as a viatical settlement broker
6 pursuant to paragraph 2 of subsection A of this section shall not be
7 subject to the requirements of this subsection. Any person failing
8 to meet the requirements of this subsection shall be subject to the
9 penalties imposed by the Commissioner.

10 SECTION 8. AMENDATORY 36 O.S. 2011, Section 6203, is
11 amended to read as follows:

12 Section 6203. The definition of an insurance adjuster shall not
13 be deemed to include, and a license as an insurance adjuster shall
14 not be required of, the following:

15 1. A licensed agent or general agent of an insurer who
16 processes undisputed or uncontested losses for ~~said~~ the insurers
17 solely pursuant to the provisions of policies issued by the agent,
18 or his agency, if the agent or general agent receives no extra
19 compensation for such services;

20 2. A person engaged in investigating, adjusting, negotiating,
21 or processing claims arising pursuant to the provisions of life
22 insurance, annuity, or accident and health insurance contracts;

23

24

1 3. A nonresident who occasionally is in this state to adjust a
2 single loss or losses arising pursuant to the provisions of a policy
3 of marine insurance;

4 4. A salaried employee of a licensed insurer whose primary
5 duties are not adjusting, investigating, or supervising insurance
6 claims;

7 5. A licensed attorney in the State of Oklahoma who adjusts
8 insurance losses from time to time, incidental to the practice of
9 law, and who does not advertise or represent that he is an adjuster;

10 6. A person employed solely for the purpose of furnishing
11 technical assistance to a licensed adjuster, including but not
12 limited to photographers, appraisers, estimators, private
13 detectives, engineers, handwriting experts, and attorneys-at-law;

14 7. A person who performs clerical duties for a licensed insurer
15 or organization that handles claims and who does not negotiate
16 disputed or contested claims for the insurer or organization that
17 handles claims;

18 8. A nonresident insurance adjuster who is actively licensed in
19 another state and who is in this state no more than once a year for
20 the purpose of adjusting a single loss ~~or losses arising out of an~~
21 ~~occurrence common to all such losses,~~ or who is acting as a
22 temporary substitute for a licensed adjuster; or

23 9. An individual who collects claim information from, or
24 furnishes claim information to, insured customers or claimants, and

1 who conducts data entry including entering data into an automated
2 claims adjudication system, provided that the individual is an
3 employee of a licensed independent adjuster or an affiliate where no
4 more than twenty-five persons are under the supervision of one
5 licensed independent adjuster or licensed agent. A licensed agent
6 acting as a supervisor pursuant to this paragraph is not required to
7 be licensed as an adjuster.

8 SECTION 9. AMENDATORY 36 O.S. 2011, Section 6206, as
9 amended by Section 13, Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2018,
10 Section 6206), is amended to read as follows:

11 Section 6206. A. The Insurance Commissioner shall license as
12 an adjuster only an individual who has fully complied with the
13 provisions of the Insurance Adjusters Licensing Act, including the
14 furnishing of evidence satisfactory to the Commissioner that the
15 applicant:

16 1. Is at least eighteen (18) years of age;

17 2. Is a bona fide resident of this state or is a resident of a
18 state or country which permits adjusters who are residents of this
19 state to act as adjusters in such other state or country;

20 3. If a nonresident of the United States, has complied with all
21 federal laws pertaining to employment and the transaction of
22 business in the United States;

23 4. Is a trustworthy person;

24

1 5. Has had experience or special education or training of
2 sufficient duration and extent with reference to the handling of
3 loss claims pursuant to insurance contracts to make the applicant
4 competent to fulfill the responsibilities of an adjuster;

5 6. Has successfully passed an examination as required by the
6 Commissioner within two (2) years prior to date of application, or
7 has been exempted from examination, in accordance with the
8 provisions of Section 6208 of this title; and

9 7. If the application is for a public adjuster's license, the
10 applicant has filed the bond required by Section 6214 of this title.

11 B. Residence addresses and telephone listings, birth dates, and
12 social security numbers for insurance adjusters and public adjusters
13 on file with the Insurance Department are exempt from disclosure as
14 public records. A separate business or mailing address as provided
15 by the adjuster shall be considered a public record and upon request
16 shall be disclosed. If an adjuster's residence and business address
17 or residence and business telephone number are the same, such
18 address or telephone number shall be considered a public record.

19 C. The mailing address shall appear on all licenses of the
20 licensee, and the licensee shall promptly notify the Insurance
21 Commissioner within thirty (30) days of any change in legal name or
22 preferred mailing address, physical business address, e-mail
23 address, or residence physical residential address of the licensee.
24 A change in legal name or address thirty (30) days after the change

1 must include an administrative fee of Fifty Dollars (\$50.00).
2 Failure to provide acceptable notification of a change of legal name
3 or address to the Insurance Commissioner within forty-five (45) days
4 of the date the administrative fee is assessed will result in
5 penalties pursuant to Section 6220 of this title.

6 SECTION 10. AMENDATORY 36 O.S. 2011, Section 6220, as
7 last amended by Section 10, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
8 2018, Section 6220), is amended to read as follows:

9 Section 6220. A. The Commissioner may censure, suspend,
10 revoke, or refuse to issue or renew a license after hearing for any
11 of the following causes:

12 1. Material misrepresentation or fraud in obtaining an
13 adjuster's license;

14 2. Any cause for which original issuance of a license could
15 have been refused;

16 3. Misappropriation, conversion to the personal use of the
17 licensee, or illegal withholding of monies required to be held by
18 the licensee in a fiduciary capacity;

19 4. Material misrepresentation of the terms and effect of any
20 insurance contract, with intent to deceive, or engaging in, or
21 attempting to engage in, any fraudulent transaction with respect to
22 a claim or loss that the licensee or the trainee is adjusting and,
23 in the case of a public adjuster, misrepresentation of the services
24 offered or the fees or commission to be charged;

1 5. Conviction of or pleading guilty or nolo contendere to a
2 felony pursuant to the laws of this state, any other state, the
3 United States, or any foreign country;

4 6. If in the conduct of business affairs, the licensee or
5 trainee has shown himself to be, and is so deemed by the
6 Commissioner, incompetent, untrustworthy or a source of injury to
7 the public;

8 7. Refusal to comply with any lawful order of the Commissioner;

9 8. Violation of any provision of the Insurance Adjusters
10 Licensing Act;

11 9. Adjusting losses or negotiating claim settlements arising
12 pursuant to provisions of insurance contracts on behalf of an
13 insurer or insured without proper licensing from the Commissioner
14 and authority from the licensed insurer or the insured party;

15 10. Failing to respond to any inquiry (including electronic
16 communications) from the Department within thirty (30) calendar days
17 of receipt of such inquiry;

18 11. Forging another's name to any document;

19 12. ~~Obtaining or attempting to obtain a license through~~
20 ~~misrepresentation or fraud~~ Improperly using notes or any other
21 reference material to complete an examination for an insurance
22 license;

23 13. Having admitted or been found to have committed any
24 insurance unfair trade practice or insurance fraud;

1 14. Having an insurance adjuster license or its equivalent
2 denied, suspended, censured, placed on probation or revoked in any
3 other state, province, district or territory;

4 15. Failing to inform the Department, by any means acceptable
5 to the Department, of a change of address, change of legal name or
6 change of information submitted on the application within thirty
7 (30) days of the change; or

8 16. Providing services as a public adjuster, company adjuster
9 or independent adjuster on the same claim.

10 B. In addition to or in lieu of any applicable denial,
11 suspension, or revocation of a license, any person violating the
12 provisions of the Insurance Adjusters Licensing Act may be subject
13 to a civil fine of not more than One Thousand Dollars (\$1,000.00)
14 for each violation. This fine may be enforced in the same manner in
15 which civil judgment may be enforced.

16 C. If the license of an adjuster is suspended, revoked, or not
17 renewed, the licensee shall surrender ~~said~~ the license to the
18 Commissioner.

19 D. The Commissioner shall not reinstate a license to any person
20 whose license has been suspended, revoked, or refused renewal until
21 the Commissioner determines that the cause or causes for the
22 suspension, revocation, or nonrenewal of ~~said~~ the license no longer
23 exist.

1 E. The Department shall retain the authority to enforce the
2 provisions of and impose any penalty or remedy authorized by this
3 title against any person who is under investigation for or charged
4 with a violation even if the person's license or registration has
5 been surrendered or has lapsed by operation of law.

6 F. It shall be unlawful for any person, firm, association,
7 company or corporation to act as an adjuster without first obtaining
8 a license pursuant to the Insurance Adjusters Licensing Act. Any
9 person convicted of violating the provisions of this subsection
10 shall be guilty of a misdemeanor and shall be punished as set forth
11 in Section 10 of Title 21 of the Oklahoma Statutes. The restriction
12 set forth in this subsection shall apply regardless of whether the
13 person, firm, association, company or corporation has obtained power
14 of attorney from an insurance claimant or has entered into any other
15 agreement with an insurance claimant to act on the behalf of the
16 claimant.

17 SECTION 11. AMENDATORY 36 O.S. 2011, Section 6220.1, as
18 amended by Section 6, Chapter 297, O.S.L. 2015 (36 O.S. Supp. 2018,
19 Section 6220.1), is amended to read as follows:

20 Section 6220.1. A. No adjuster may, directly or indirectly,
21 own or have a pecuniary interest in any business entity which
22 provides construction or reconstruction related services on behalf
23 of an insurance claimant or insured for which the adjuster is
24 providing services, nor may the adjuster, directly or indirectly,

1 own or have a pecuniary interest in any other business entity which
2 furnishes any supplies, material, services, or equipment purchased
3 by or on behalf of the claimant or insured in settlement of the
4 claim, other than usual and customary supplies, materials, services,
5 or equipment utilized in the adjusting process.

6 B. Any person who violates the provisions of this section shall
7 be subject to disciplinary action or a civil fine, or both, as set
8 forth in Section 6220 of this title.

9 C. This section shall not apply to an adjuster providing
10 services on a claim which is located in a municipality having a
11 population of less than six thousand (6,000) persons; provided,
12 however, the adjuster shall give written disclosure of the potential
13 conflict of interest to both the insured and insurer prior to the
14 performance of any adjuster services.

15 D. The restrictions set forth in subsection A of this section
16 shall apply regardless of whether the person or entity has obtained
17 power of attorney from an insurance claimant or has entered into any
18 other agreement with an insurance claimant to act on the behalf of
19 the claimant.

20 SECTION 12. AMENDATORY 36 O.S. 2011, Section 6754, is
21 amended to read as follows:

22 Section 6754. A. Service contracts marketed, sold, offered for
23 sale, issued, made, proposed to be made, or administered in this
24 state shall be written, printed, or typed in clear, understandable

1 language that is easy to read, and shall disclose the requirements
2 set forth in this section, as applicable. Each service contract
3 provider shall, upon initial registration and at renewal of its
4 registration, file a copy of each of its current contracts issued in
5 this state for informational purposes. The provider shall update a
6 filing any time a change is made to the service contract that
7 materially affects the rights or obligations of a contract holder or
8 upon written request by the Department.

9 B. Service contracts insured under an insurance policy pursuant
10 to paragraph 3 of subsection C of Section ~~4 of this act~~ 6753 of this
11 title shall contain a statement in substantially the following form:
12 "Obligations of the provider under this service contract are insured
13 under a service contract reimbursement insurance policy." The
14 service contract shall also state the name and address of the
15 insurer.

16 C. Service contracts not insured under an insurance policy
17 pursuant to paragraph 3 of subsection C of Section ~~4 of this act~~
18 6753 of this title shall contain a statement in substantially the
19 following form: "Obligations of the provider under this service
20 contract are backed by the full faith and credit of the provider."

21 D. Service contracts shall state the name and address of the
22 provider, and shall identify any administrator if different from the
23 provider, the service contract seller, and the service contract
24 holder to the extent that the name of the service contract holder

1 has been furnished by the service contract holder. The identities
2 of such parties are not required to be preprinted on the service
3 contract and may be added to the service contract at the time of
4 sale.

5 E. Service contracts shall state the total purchase price and
6 the terms under which service contract is sold. The purchase price
7 is not required to be preprinted on the service contract and may be
8 negotiated at the time of sale with the service contract holder.

9 F. Service contracts shall state the existence of any trade
10 service fee, if applicable.

11 G. Service contracts shall specify the merchandise and services
12 to be provided and any limitations, exceptions, or exclusions.

13 H. Service contracts shall state any restrictions governing the
14 transferability of the service contract, if applicable.

15 I. Service contracts shall state the terms, restrictions or
16 conditions governing cancellation of the service contract.

17 J. Service contracts shall set forth all of the obligations and
18 duties of the service contract holder, such as the duty to protect
19 against any further damage and any requirement to follow the owner's
20 manual.

21 K. Service contracts shall state whether or not the service
22 contract provides for or excludes consequential damages or
23 preexisting conditions, if applicable. Service contracts may, but
24

1 are not required to, cover damage resulting from rust, corrosion or
2 damage caused by a noncovered part or system.

3 L. If prior approval of repair work is required, a service
4 contract shall state the procedure for obtaining prior approval and
5 for making a claim, including a toll-free telephone number for claim
6 service and a procedure for obtaining emergency repairs performed
7 outside of normal business hours.

8 SECTION 13. This act shall become effective November 1, 2019.

9 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
10 February 25, 2019 - DO PASS AS AMENDED

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